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10/561,365	04/11/2006	Hermann Theisinger	FRZ-102US	9716
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,365

Applicant(s)

THEISINGER, HERMANN

Examiner

Ismael Negron

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed December 17, 2007, has been entered. Claims 1-19 have been amended. No claim has been cancelled. Claim 20 has been added. Claims 1-20 are still pending in this application, with claims 1 and 9 being independent.
2. The drawings were received on December 17, 2007. These drawings are acceptable.

Abstract

3. The abstract of the disclosure is objected to because it repeats information given in the title, and includes phrases which can be implied. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 7-16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by GRANNEMAN et al. (U.S. Pat. 5,067,063).

Art Unit: 2885

5. GRANNEMAN et al. discloses a bag having:

- **lighting means for illuminating the interior of the bag (as recited in claims 1 and 9), as seen in Figure 12;**
- **the lighting means forming a partition (as recited in claims 1 and 9), as seen in Figure 2;**
- **the lighting means including at least one flat light source (as recited in claims 1 and 9) Figure 1, reference number 22;**
- **a receiving part for the at least one flat light source (as recited in claims 1 and 9), as seen in Figure 4;**
- **the partition being transparent on at least one side at least in the area of the at least one said light source (as recited in claims 1 and 9), column 3, lines 45-50;**
- **the partition being removable and capable of being connected with a bag by means of prior-art fastening means (as recited in claim 2 and 14), column 3, lines 12-15;**
- **the partition being rigidly connected with a bag (as recited in claims 3 and 12), as seen in Figure 4;**
- **the light source located in the partition being capable of being switched on and/or off by means of a switch (as recited in claims 4 and 16), column 4, lines 5-9;**

Art Unit: 2885

- the partition being transparent on both sides at least in the area of the said light source (as recited in claims 7 and 19), column 3, lines 45-50;
- flat light source being an EL module, especially an EL mat (as recited in claims 8, 10 and 20), Figure 1, reference number 22;
- the flat light source being arranged essentially parallel to the broader outer surfaces of the bag (as recited in Claim 10), as seen in Figure 1; and
- the flat light source being removably arranged in the bag (as recited in Claim 13), column 3, lines 12-15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5, 6, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over GRANNEMAN et al. (U.S. Pat. 5,067,063).

7. GRANNEMAN et al. discloses all the limitations of the claims (as detailed in previous section 13), except:

- at least one battery compartment located on the top side of the partition (as recited in claims 5 and 17); or
- the power being automatically interrupted after a preset time beginning from the switching ON of the light source (as recited in claims 6 and 18).

8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to locate the battery compartment on a top side of the partition of the patented structure of GRANNEMAN et al., since it has been held that rearranging parts of a prior art structure involves only routing skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). In this case, it is note that the instant description is silent as to the placement of the battery compartment solving any problem or being for a particular reason. Locating the battery compartment on the top of the partition would have flown naturally to one of ordinary skill in the art to be able to easily change such batteries.

9. Regarding turning the light source automatically OFF after a predetermined period of time, the examiner takes Official Notice that the use of timing switches is known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include such timing switches in the patented structure of GRANNEMAN et al. One would have been motivated to increase battery life

by automatically switching the light source OFF after a predetermined period of time since activation of such light source.

Response to Arguments

10. Applicant's arguments filed December 17, 2007 have been fully considered but they are not persuasive.

11. Regarding the Examiner's rejection of claims 1 and 9 under 35 U.S.C. 102(b) as being anticipated by GRANNEMAN et al. (U.S. Pat. 5,067,063), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically a partition for the interior of a handbag, or such partition being transparent.

12. Regarding the Examiner's rejection of claims 2-8 and 10-19, the applicant present no arguments, except stating that such claims depend directly or indirectly from independent claim 1 or 9, and would be allowable when/if the independent claims are allowed.

13. In response to applicant's arguments that GRANNEMAN et al. failed to disclose a transparent partition for the interior of a handbag, the applicant is respectfully advised that while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be

Art Unit: 2885

interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 70 USPQ2d 1827 (Fed. Cir. May 13, 2004). The applicant is further advised that in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

In this case, GRANNEMAN et al. discloses an EL lamp 22 positioned inside a pocket formed in the interior of a handbag 38, such that light from the EL lamp 22 shines through a window 50 to illuminate the interior of the handbag 38 (see Figure 4 and column 3, lines 61-66). GRANNEMAN et al. further states that a two-sided EL lamp 22 is used to simultaneously illuminate two interior sections of the handbag 38. One of ordinary skill in the art would have easily recognized that in order for light from the EL lamp 22 to shine through window 50, as detailed by GRANNEMAN et al., such window 50 would necessarily be transparent; and that a two sided EL lamp 22 simultaneously illuminating two interior sections of the handbag 38 would form a partition between such interior sections.

14. In addition, the applicant is strongly advised that functional language, as used in the instant claims (e.g. for receiving a light source, can be connected, is removable, can be switched, etc.), merely requires the capability to perform the recited functions. *In re Schreiber*, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997).

Art Unit: 2885

In this case, the language of, for example, Claim 1 merely defines an transparent element, as almost any element is capable of acting as a partition and receiving a flat light source (e.g. from window envelopes to Plexiglas panels). In fact, Claim 1 could be interpreted to not include a light source, but merely the capability to receive such light source.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (571) 272-

Art Unit: 2885

2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee, can be reached on (571) 272-7044. The facsimile machine number for the Art Group is (571) 273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.

/Ismael Negrón/
Examiner
AU 2885